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EXAMINER

FRISBY, KESHA

ART UNIT PAPER NUMBER

3715

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/611,933

Applicant(s)

ABRAHAM-FUCHS ET AL.

Examiner

Kesha Frisby

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/3/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Claim Objections*

2. Claims 2, 4, 8, 19, 22, 30, 32 & 34 objected to because of the following informalities: In claim 4, which" should be --that--. In claim 2, there should be a comma after "skills". In claim 8 line 11 and claim 15 line 21, there should be a comma after "treatment" and "belong to". In claim 15 line 20 "the" should be deleted before "another". In claim 19, "which" should be --that--. In claim 30, "which are" should be --that are--. In claim 32, "which" should be --that--. In claims 22 & 34, the word "database" should be inserted after "further". Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1, 2, 9, 11-13, 17, 18, 29, 30, 37 & 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Joao (U.S. Patent Number 5,961,332).**

Referring to claim 1, Joao discloses providing a capability profile for a patient (Fig. 2 – 203A, column 3 lines 47-56 & databank 8), a first database containing a plurality of skills and an allocation of minimum prerequisites for capabilities required for a respective skill

(Fig. 3 - Block 308), and a second database, said second database containing a plurality of skills with expert rules relating to the selection of at least one of exercises and capabilities to be treated (Fig. 2 – 203B), and containing at least one of an associated order and weighting for the at least one of exercises and capabilities (column 3 lines 9 & 10: performing various calculations), for the purpose of acquiring respective skills taking into account existing capabilities and capability deficits; automatically evaluating, at a data processing station, the patient's capability profile for at least one patient skill which is to be treated by reverting to the first database to ascertain the existing capabilities and capability deficits (column 30 lines 43-61); selecting, by reverting to the second database and taking into account the expert rules, at least one exercise and capability to be treated (column 33 line 36-column 34 line 25: based on severity-score & abstract: diagnosis); and outputting the at least one selected exercise and capability to be treated, with associated information about at least one of the weighting and order for carrying out training (column 39 line 49-column 41 line 13: Individualized Treatment Plan (ITP)).

Referring to claim 2, Joao discloses wherein a skills profile for the patient is provided (Fig. 2 – 203A), from which the data processing station (CPU 1) automatically ascertains skills, which are to be treated (column 33 line 36 - column 34 line 25: based on severity-score).

Referring to claim 9, Joao discloses wherein the expert rules in the second database, relating to at least one of the selection of exercises and capabilities to be treated and

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also their at least one of order and weighting, are designed for the fastest possible acquisition of the respective skills (column 7 lines 29-34).

Referring to claim 11, Joao discloses wherein, in the course of therapy, a current capability profile for the patient is repeatedly provided for the purpose of automatically generating proposals for modifying the training program by reverting to the expert rules in the second database again when individual capabilities change (column 41 lines 47-57).

Referring to claim 12, Joao discloses a data processing station (Fig. 2: central processing unit 204), coupled to a first database containing a plurality of capabilities and an allocation of minimum prerequisites for capabilities required for the respective skill (Fig. 3 - Block 308), and coupled to a second database containing a plurality of skills with expert rules relating to the selection of at least one of exercises and capabilities to be treated (Fig. 2 – 203B) and also at least one of their order and weighting for the purpose of acquiring the respective skills taking into account existing capabilities and capability deficits (column 3 lines 9 & 10: performing various calculations); and a module for automatically evaluating a capability profile for a patient by reverting to the first database to ascertain the capabilities and capability deficits existing for a skill to be treated (column 30 lines 43-61) and for selecting (column 33 line 36-column 34 line 25: based on severity-score & abstract: diagnosis) and outputting (column 39 line 49-column 41 line 13: Individualized Treatment Plan (ITP)) at least one of exercises and capabilities to be treated with information about the at least one of weighting and order

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for carrying out training by reverting to the second database and taking into account the expert rules.

Referring to claim 13, Joao discloses wherein the module is designed for automatically ascertaining the patient's skills to be treated on the basis of a skills profile (Fig. 2 – 203A) for the patient (column 33 line 36 - column 34 line 25: based on severity-score).

Referring to claim 17, Joao discloses wherein the module is designed for repeatedly retrieving the patient's capability profile in the course of therapy for the purpose of automatically generating proposals for modifying the training program by reverting to the expert rules in the second database again when individual capabilities change (column 3 lines 47-56).

Referring to claim 18, Joao discloses wherein the expert rules in the second database are designed for the fastest possible acquisition of the respective skills (column 7 lines 29-34).

Referring to claim 29, Joao discloses a method for supporting therapy planning when creating a training program, wherein a capability profile for a patient (Fig. 2 – 203A, column 3 lines 47-56 & databank 8), a first database (Fig. 3 – Block 308), and a second database (Fig. 2 – 203B), said second database containing; evaluating a patient's capability profile for at least one treatable patient skill based upon information in a first database, including a plurality of skills and an allocation of minimum prerequisites for capabilities required for a respective skill, to ascertain the existing capabilities and capability deficits (column 30 lines 43-61); selecting at least one exercise and capability to be treated based upon information in a second database, the second database

including a plurality of skills with expert rules relating to the selection of at least one of exercises and capabilities to be treated and including at least one of an associated order and weighting for the at least one of exercises and capabilities for the purpose of acquiring respective skills, taking into account existing capabilities and capability deficits, wherein the selecting takes into account the expert rules (column 33 line 36-column 34 line 25: based on severity-score & abstract : diagnosis); and outputting the at least one selected exercise and capability to be treated, with associated information about at least one of the weighting and order for carrying out training (column 39 line 49-column 41 line 13: Individualized Treatment Plan (ITP)).

Referring to claim 30, Joao discloses wherein a skills profile (Fig. 2 – 203A) for the patient is provided, from which skills that are to be treated are ascertainable (column 33 line 36 – column 34 line 25: based on severity-score).

Referring to claim 37, Joao discloses wherein the expert rules in the second database, relating to at least one of the selection of exercises and capabilities to be treated and also their at least one of order and weighting, are designed for the fastest possible acquisition of the respective skills (column 7 lines 29-34).

Referring to claim 39, Joao discloses wherein, in the course of therapy, a current capability profile for the patient is repeatedly provided for the purpose of automatically generating proposals for modifying the training program by reverting to the expert rules in the second database again when individual capabilities change (column 41 lines 47-57).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 3, 14 & 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joao in view of L'Allier et al. (U.S. Patent Number 6,606,480).** Referring to claim 3, Joao discloses the method as claimed in claim 2. *Joao does not disclose wherein at least one of the patient's capability and skills profile is retrieved from at least one of a third and a fourth database.* However, L'Allier et al. teaches wherein at least one of the patient's capability and skills profile (the examiner view this element as a set of skills possessed by a user) is retrieved from at least one of a third and a fourth database (Fig. 1B – skills database 200). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include wherein at least one of the patient's capability and skills profile is retrieved from at least one of a third and a fourth database, as disclosed in L'Allier et al., incorporated into Joao so that each requirement/element for developing a training program is separate.

Referring to claim 14, Joao discloses the system as claimed in claim 13. *Joao does not disclose wherein the data processing station is coupled to at least one of a third and a fourth database, from which the at least one capability and skills profile is retrievable.* However, L'Allier et al. teaches wherein the data processing station (Fig. 1B: system



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10) is coupled to at least one of a third and a fourth database (Fig. 1B – skills database 200), from which the at least one capability and skills profile is retrievable (the examiner view this element as a set of skills possessed by a user). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include wherein the data processing station is coupled to at least one of a third and a fourth database, from which the at least one capability and skills profile is retrievable, as disclosed in L'Allier et al., incorporated into Joao so that each requirement/element for developing a training program is separate.

Referring to claim 31, Joao discloses the system as claimed in claim 30. *Joao does not disclose wherein at least one of the patient's capability and skills profile is retrieved from at least one of a third and a fourth database.* However, L'Allier et al. teaches wherein at least one of the patient's capability and skills profile (the examiner view this element as a set of skills possessed by a user) is retrieved from at least one of a third and a fourth database (Fig. 1B – skills database 200). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include wherein at least one of the patient's capability and skills profile is retrieved from at least one of a third and a fourth database, as disclosed in L'Allier et al., incorporated into Joao so that each requirement/element for developing a training program is separate.

**7. Claims 4, 5, 10, 32, 33 & 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joao in view of Greenberg (WO 02/41231 A2).** Referring to claim 4, Joao discloses the method in claim 1. *Joao does not disclose wherein at least one associated target capability is automatically output by the data processing station for*

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*each exercise that is output.* However, Greenberg teaches wherein at least one associated target capability (paragraph 0037: the appropriate medication dosage) is automatically output by the data processing station for each exercise (paragraph 0037: responsive to the selection of a drug) that is output. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include automatically outputting, as disclosed in Greenberg, incorporated into Joao so that the correct amount of medication is given to the patient. Therefore, the patient will not receive too much medication.

Referring to claim 5, as Greenberg teaches wherein the at least one associated target capability (paragraph 0037: the appropriate medication dosage) is retrieved from another database (medication database/treatment database 30), containing a plurality of exercises (the examiner views this element as the different amount of dosages that can be given) and an allocation of target capabilities which are trained when performing the respective exercise (the examiner views this elements as giving the patient the correct amount of medication); the combination above contains this structure.

Referring to claim 10, Joao discloses the method as claimed in claim 1. *Joao does not disclose wherein the data processing station automatically outputs, for all at least one of exercises and capabilities to be treated, at least one of an associated organization unit and organization category which is responsible for at least one of carrying out the exercise and treating the capability.* However, Greenberg teaches wherein the data processing station automatically outputs, for all at least one of exercises and capabilities to be treated, at least one of an associated organization unit and organization category

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which is responsible for at least one of carrying out the exercise and treating the capability (paragraph 0031: "best" treatment). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include at least one of an associated organization unit and organization category which is responsible for at least one of carrying out the exercise and treating the capability, as disclosed in Greenberg, incorporated into Joao in order to have the most effective drug used for treatment purposes.

Referring to claim 32, Joao discloses the method as claimed in claim 29. *Joao does not disclose wherein at least one associated target capability is output for each exercise that is output.* However, Greenberg teaches wherein at least one associated target capability (paragraph 0037: the appropriate medication dosage) is output for each exercise (paragraph 0037: responsive to the selection of a drug) that is output. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include outputting, as disclosed in Greenberg, incorporated into Joao so that the correct amount of medication is given to the patient. Therefore, the patient will not receive too much medication.

Referring to claim 33, as Greenberg teaches wherein the at least one associated target capability (paragraph 0037: the appropriate medication dosage) is retrieved from another database (medication database/treatment database 30), containing a plurality of exercises (the examiner views this element as the different amount of dosages that can be given) and an allocation of target capabilities which are trained when performing

the respective exercise (the examiner views this elements as giving the patient the correct amount of medication); the combination above contains this structure.

Referring to claim 38, Joao discloses the method as claimed in claim 29. *Joao does not* wherein, for all at least one of exercises and capabilities to be treated, at least one of an associated organization unit and organization category is output, which is responsible for at least one of carrying out the exercise and treating the capability. However, Greenberg teaches wherein, for all at least one of exercises and capabilities to be treated, at least one of an associated organization unit and organization category is output, which is responsible for at least one of carrying out the exercise and treating the capability. (paragraph 0031: "best" treatment). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include at least one of an associated organization unit and organization category which is responsible for at least one of carrying out the exercise and treating the capability, as disclosed in Greenberg, incorporated into Joao in order to have the most effective drug used for treatment purposes.

8. **Claims 6 & 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joao/Greenberg and further in view of L'Allier et al. (U.S. Patent Number 6,606,480).** Referring to claim 6, Joao/Greenberg discloses the method as claimed in claim 5. *Joao/Greenberg does not disclose wherein a further database is provided which contains a plurality of skills and a prioritization of the skills.* However, L'Allier et al. teaches wherein a further database is provided which contains a plurality of skills (Fig. 1B: skills database 200) and a prioritization of the skills (based to the gap

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analysis). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a skills database, as disclosed in L'Allier et al., incorporated into Joao/Greenberg in order for an individual to gain proficiency (column 5 lines 11 & 12).

Referring to claim 34, Joao/Greenberg discloses the method as claimed in claim 33. Joao/Greenberg does not disclose wherein a further is provided which contains a plurality of skills and a prioritization of the skills. However, L'Allier teaches wherein a further database is provided which contains a plurality of skills (Fig. 1B: skills database 200) and a prioritization of the skills (based on gap analysis). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a skills database, as disclosed in L'Allier et al., incorporated into Joao/Greenberg in order for an individual to gain proficiency (column 5 lines 11 & 12).

9. **Claims 7, 23 & 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joao/Greenberg/L'Allier et al. and further in view of Lumsden et al. (U.S. Publication Number 2003/0191777).** Referring to claim 7, Joao/Greenberg/L'Allier et al. discloses the method as claimed in claim 6. *Joao/Greenberg/L'Allier et al. does not disclose wherein the prioritization of the skills in the further database is alterable by a user.* However, Lumsden et al. teaches wherein the prioritization of the skills in the further database is alterable by a user (paragraphs 0075 & 0076). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a skills database, as disclosed in Lumsden et al., incorporated into

Joao/Greenberg/L'Allier et al. in order to be arranged according to a user's preference (paragraph 0075).

Referring to claim 23, Joao/Greenberg/L'Allier et al. discloses the method as claimed in claim 22. *Joao/Greenberg/L'Allier et al. does not disclose wherein the prioritization of the skills in the sixth database is alterable by a user.* However, Lumsden et al. teaches wherein the prioritization of the skills in the sixth database is alterable by a user (paragraphs 0075 & 0076). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a skills database, as disclosed in Lumsden et al., incorporated into Joao/Greenberg/L'Allier et al. in order to be arranged according to a user's preference (paragraph 0075).

Referring to claim 35, Joao/Greenberg/L'Allier et al. discloses the method as claimed in claim 34. *Joao/Greenberg/L'Allier et al. does not disclose wherein the prioritization of the skills in the further database is alterable by a user.* However, Lumsden et al. teaches wherein the prioritization of the skills in the further database is alterable by a user (paragraphs 0075 & 0076). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a skills database, as disclosed in Lumsden et al., incorporated into Joao/Greenberg/L'Allier et al. in order to be arranged according to a user's preference (paragraph 0075).

10. **Claims 8, 21, 24 & 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joao/Greenberg in view of L'Allier et al. and further in view of Lumsden et al..** Referring to claim 8, Joao/Greenberg discloses the method as claimed in claim 6. *Joao/Greenberg does not disclose wherein the data processing*

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*station reverts to the further database for the purpose of automatically selecting exercises, usable to treat capabilities in need of treatment, which belong to, that skill to be treated which has the highest prioritization.* L'Allier et al. teaches wherein the data processing station reverts to the further database for the purpose of automatically selecting exercises (summary: training regiment), usable to treat capabilities in need of treatment (summary: column 3 lines 22-30). *L'Allier et al. does not teach wherein that skill to be treated which has the highest prioritization.* However, Lumsden et al. teaches wherein that skill to be treated which has the highest prioritization (Figs. 9 & 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the module is designed for automatically selecting exercises by reverting to another database and wherein that skill to be treated which has the highest prioritization, as disclosed in L'Allier et al. and Lumsden et al. respectively, incorporated into Joao/Greenberg so the best treatment will be issued to the patient and so that the skill that needs the most attention is dealt with first.

Referring to claim 21, L'Allier et al teaches wherein the data processing station reverts to the further database for the purpose of automatically selecting exercises (summary: training regiment), usable to treat capabilities in need of treatment (summary: column 3 lines 22-30). *L'Allier et al. does not teach wherein the skill to be treated which has the highest prioritization.* However, Lumsden et al. teaches wherein the skill to be treated which has the highest prioritization (Fig. 9); the combination of claim 7 contains this structure.

Referring to claim 24, L'Allier et al teaches wherein the data processing station reverts to the further database for the purpose of automatically selecting exercises (summary: training regiment), usable to treat capabilities in need of treatment (summary: column 3 lines 22-30). *L'Allier et al. does not teach wherein the skill to be treated which has the highest prioritization.* However, Lumsden et al. teaches wherein the skill to be treated which has the highest prioritization (Fig. 9); the combination of claim 23 contains this structure.

Referring to claim 36, L'Allier et al. teaches wherein the further database is accessed for the purpose of selecting exercises (summary: training regiment), usable to treat capabilities in need of treatment (summary: column 3 lines 22-30). L'Allier et al. does not teach wherein the skill to be treated which has the highest prioritization. However, Lumsden et al. teaches wherein the skill to be treated which has the highest prioritization (Fig. 9); the combination of claim 34 contains this structure.

**11. Claims 15, 16 & 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joao in view of L'Allier et al. and further in view of Lumsden et al..** Referring to claims 15 & 16, Joao discloses the system as claimed in claim 12. *Joao does not disclose wherein the data processing station is coupled to a another database containing a plurality of skills and a prioritization for the skills, and wherein the module is designed for automatically selecting exercises by reverting to the another database, the exercises being able to be used to treat capabilities in need of treatment which belong to that skill to be treated which has the highest prioritization and wherein the module allows the prioritization to be altered by the user.* L'Allier et al. teaches



wherein the module is designed for automatically selecting exercises by reverting to another database (summary: training regiment), the exercises being able to be used to treat capabilities in need of treatment (summary: column 3 lines 22-30) and wherein the data processing station is coupled to another database containing a plurality of skills (Fig. 1B: skills database 200) and a prioritization for the skills (based to the gap analysis). *L'Allier et al. does not teach that skill to be treated which has the highest prioritization and wherein the module allows the prioritization to be altered by the user.* However, Lumsden et al. teaches that skill to be treated which has the highest prioritization (Fig. 9) and wherein the module allows the prioritization to be altered by the user (paragraphs 0075 & 0076). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the module is designed for automatically selecting exercises by reverting to another database and a skills database, as disclosed in L'Allier et al. and Lumsden et al. respectively, incorporated into Joao in order so that the skill that needs the most attention is dealt with first and so an individual can gain proficiency (column 5 lines 11 & 12).

Referring to claims 25 & 26, Joao discloses the system as claimed in claim 13. *Joao does not disclose wherein the data processing station is coupled to a another database containing a plurality of skills and a prioritization for the skills, and wherein the module is designed for automatically selecting exercises by reverting to the another database, the exercises being able to be used to treat capabilities in need of treatment which belong to that skill to be treated which has the highest prioritization and wherein the module allows the prioritization to be altered by the user.* L'Allier et al. teaches wherein the

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module is designed for automatically selecting exercises by reverting to another database (summary: training regiment), the exercises being able to be used to treat capabilities in need of treatment (summary: column 3 lines 22-30) and wherein the data processing station is coupled to another database containing a plurality of skills (Fig. 1B: skills database 200) and a prioritization for the skills (based to the gap analysis). *L'Allier et al. does not teach that skill to be treated which has the highest prioritization and wherein the module allows the prioritization to be altered by the user.* However, Lumsden et al. teaches that skill to be treated which has the highest prioritization (Fig. 9) and wherein the module allows the prioritization to be altered by the user (paragraphs 0075 & 0076). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the module is designed for automatically selecting exercises by reverting to another database and a skills database, as disclosed in L'Allier et al. and Lumsden et al. respectively, incorporated into Joao in order so that the skill that needs the most attention is dealt with first and so an individual can gain proficiency (column 5 lines 11 & 12).

Referring to claims 27 & 28, Joao discloses the system according to claim 13. *Joao does not disclose the system according to claim 14, wherein the data processing station is coupled to a another database containing a plurality of skills and a prioritization for the skills, and wherein the module is designed for automatically selecting exercises by reverting to the another database, the exercises being able to be used to treat capabilities in need of treatment which belong to that skill to be treated which has the highest prioritization and wherein the module allows the prioritization to be altered by*

*the user.* L'Allier et al. teaches the system as claimed in claim 14 (refer to claim 14 rejection above) and wherein the module is designed for automatically selecting exercises by reverting to another database (summary: training regiment), the exercises being able to be used to treat capabilities in need of treatment (summary: column 3 lines 22-30) and wherein the data processing station is coupled to another database containing a plurality of skills (Fig. 1B: skills database 200) and a prioritization for the skills (based to the gap analysis). *L'Allier et al. does not teach that skill to be treated which has the highest prioritization and wherein the module allows the prioritization to be altered by the user.* However, Lumsden et al. teaches wherein that skill to be treated which has the highest prioritization (Fig. 9) and wherein the module allows the prioritization to be altered by the user (paragraphs 0075 & 0076). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the module is designed for automatically selecting exercises by reverting to another database and a skills database, as disclosed in L'Allier et al. and Lumsden et al. respectively, incorporated into Joao in order so that the skill that needs the most attention is dealt with first and so an individual can gain proficiency (column 5 lines 11 & 12).

**12. Claims 19, 20 & 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joao/L'Allier et al. and further in view of Greenberg.** Referring to claim 19, Joao/L'Allier et al. discloses the method as claimed in claim 3. *Joao/L'Allier et al. does not disclose wherein at least one associated target capability is automatically output by the data processing station for each exercise which is output and wherein the*

at least one associated target capability is retrieved from a fifth database, containing a plurality of exercises and an allocation of target capabilities which are trained when performing the respective exercise. However, Greenberg teaches wherein at least one associated target capability (paragraph 0037: the appropriate medication dosage) is automatically output by the data processing station for each exercise (paragraph 0037: responsive to the selection of a drug) that is output and wherein the at least one associated target capability (paragraph 0037: the appropriate medication dosage) is retrieved from a fifth database, containing a plurality of exercises (the examiner views this element as the different amount of dosages that can be given) and an allocation of target capabilities which are trained when performing the respective exercise (the examiner views this elements as giving the patient the correct amount of medication). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include automatically outputting, as disclosed in Greenberg, incorporated into Joao so that the correct amount of medication is given to the patient. Therefore, the patient will not receive too much medication.

Referring to claim 22, as L'Allier et al. teaches wherein a sixth is provided which contains a plurality of skills (Fig. 1B: skills database 200) and a prioritization of the skills (based to the gap analysis); the combination above contains this structure.

#### ***Citation of Pertinent Prior Art***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Abraham-Fuchs et al. (U.S. Publication Number 2004/0023197) discloses a method and system for providing support when selecting a training program as part of therapy planning.

L'Allier et al. (U.S. Publication Number 2003/0118978) discloses an automated individualized learning program creation system and associated methods.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kesha Frisby whose telephone number is 571-272-8774. The examiner can normally be reached on Mon. - Wed. 7-4:30pm, Thu. 6:30-4pm & Fri. 7-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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